

FAMILY-CENTERED PRACTICE

Guardian ad Litem

Appointment of the Guardian ad Litem (GAL) program. Appointment shall occur at the earliest possible time in any civil or criminal abuse, neglect, or abandonment judicial proceeding. See §§ 39.402(8)(c)(1), 39.807(2), 39.822; Rule 8.215; 8.305(b)(7)(A); 8.510(a)(2)(D).

Pursuant to the GAL Program Standards of Operations, subject to availability of program resources and GAL volunteers, the GAL Program is to accept the appointment and shall assign a representative within 30 days of the order of appointment or shall file a motion for discharge.

GAL is defined as:

- a certified GAL program;
- a duly certified volunteer;
- a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a GAL or the program;
- staff members of a program office;
- a court-appointed attorney; or
- a responsible adult who is appointed by the court to represent the best interests of a child in proceedings as provided for by law including but not limited to Chapter 39 cases, who is a party to any judicial proceedings as a representative of the child, and who serves until discharged by the court. § 39.820(1).
 - Pursuant to § 39.01(52), F.S., the GAL or GAL program representative is a party to the proceeding.
 - All children placed in a residential treatment center must have a GAL. § 39.407(6).
 - A guardian ad litem volunteer, case coordinator, and GAL attorney work as a team on each case to formulate best-interest recommendations that are child-centered and ensure the well-being and safety of the child. In some instances, when a volunteer is not available or has yet to accept case assignment, the case coordinator may serve as the child's guardian ad litem.

A GAL shall have the following responsibilities:

- to gather information concerning the allegations of the petition and file a written report (unless excused by the court), at least 72 hours prior to applicable hearing;
 - to be present at all court hearings (unless excused by court);
 - to represent the best interests of child, until excused by court or termination of court's jurisdiction; and
 - to perform other duties consistent with appointment.
- Rule 8.215(c); § 39.822(3)(4).

In cases in which the parent is financially able, the parent shall reimburse the court (in part or whole) for the cost of GAL services. § 39.822(2).

A guardian ad litem is entitled to service of pleadings and papers. Rule 8.215(e).

Role of the GAL in TPR proceedings.

- The court shall appoint a guardian ad litem in TPR proceedings to represent the best interests of the child and shall ascertain at each stage whether a GAL has been appointed. § 39.807(2)(a).
- The court shall encourage the Statewide Guardian ad Litem office to provide greater representation to those children who are within 1 year of transferring out of foster care. § 39.013(11).
- At the TPR trial, the GAL's report and/or testimony should address all factors regarding manifest best interests of the child. § 39.810(1)-(11).
- The trial court "shall consider and evaluate all relevant factors, including, but not limited to: ... the recommendations for the child provided by the child's Guardian ad Litem or legal representative." 39.810(11). If the court properly considers and evaluates the recommendation, however, "[t]he trial court may reject the recommendations of the Guardian ad Litem and give weight to expert testimony in consideration of all the evidence. The Guardian ad Litem and the expert do not render legal judgments that have effect until overruled-that is the function of the trial judge." C.W. v. Department of Children and Families, 814 So. 2d 488, 490 (Fla. 1st DCA 2002).
- Section 39.807 does not apply in cases of voluntary relinquishment of parental rights proceedings. § 39.807(2)(e).

RESOURCES:

GAL Standards of Operation, as approved by the Florida Supreme Court, can be found at: www.guardianadlitem.org